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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,171

09/23/2003

Brian Gonsalves

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/669,171	<b>Applicant(s)</b> GONSALVES ET AL.	
	<b>Examiner</b> Ba Huynh	<b>Art Unit</b> 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-24, 26 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-24, 26 and 40-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. Claims 16, 18-23, 25-26 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent application publication 2007/0124448 (Baum et al), in view of US patent application publication 2005/0008017 (Datta et al), further in view of US patent application publication 2003/0028890 (Swart et al).

- As for claim 16: Baum et al (hereinafter Baum) teach a computer implemented method and corresponding apparatus of network services comprising receiving a request for connection to a video content source in a first network (WAN, 0070) of multiple networks (0082, 0125, 0126), maintaining a list of available video content sources in the multiple networks, the list including a unique address for the video content source and at least one connection rule for accessing the video content source (0095, 0130, 0135, 0144, 0149, tables 1 and 2), determining the unique address for the video content source (0130-0135), initiating formation of at least a portion of point-to-point protocol communication (0082, 0125, 0126, 0130-0135) between a user device in a second network (LAN, 0070) of the multiple networks and the video content source (0116, 0126). Per Baum, users are billed for the services provided (0133). Baum further teaches monitoring subscriber's bandwidth utilization (0138). Baum fails to teach switching from the point-to-point to Internet connection when the video content source is not reachable. In the same art of network access, Datta teaches using Internet connection as a backup when point-to-point connection fails

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- (0010, 0037). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Datta's teaching of backup Internet connection to Baum. Motivation of the combining is for keeping quality of service. Baum fails to clearly teach billing subscriber based on tracking a metric associated with communication of the information stream. However it would have been obvious to one of skill in the art that services provided have to be track in order to accurately charge the user. Implementation of tracking a metric associated with communication of the information stream for billing is well known and is disclosed by Swart (20, 59, 72). It would have been obvious to one of skill in the art to combine Swart's teaching of the metric tracking to Baum for billing customer. The metric is selected from a group consisting of information throughput and connection duration (0020, 0056, 0059, 0109). The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072).
- As for claim 18: A telephone interface associated with the access engine (Baum's 0006, Swart's 0048). User input can be received via a voice recognition system (Swart's 0064, 0074). Thus the conversion of voice input to a request for connection appears inherently include, or even if it is not, it would have obvious to one of skill in the art in light of Baum&Swart's teaching of the voice recognition system and the telephone interface for providing a supplement input interface.
  - As for claim 19: Swart further discloses a billing engine to generate an invoice based on the metric (0059, 0072) and informing the user the cost of service (0119, 0125).

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- As for claim 20: The metric includes information throughput and connection duration (Swart's 0020, 0056, 0059, 0109). Tracking quality of service (Baum's 0027, 0094) and peak bandwidth (Baum's 0138) for billing would have been obvious method of doing business in video transmission.
- As for claim 21: The system supports constant bit rate and variable bit rate ("unspecified bit rate", 0006, 0048, 0143). In light of Baum's, implementation of converting variable bit rate to constant bit rate stream would have been obvious for better video quality and bandwidth control.
- As for claim 22: It is implicitly included that the video content source toggle from not output to output state responsive to an accepted video transfer request.
- As for claim 23: At least a portion of the request comprises a format selected from the group consisting of a dual tone multi-frequency signal, a TCP/IP packet, and a voice signal (Baum's 0041, 0078, 0079, 0083; Swart's 0045, 0064, 0074, 100).
- As for claim 25: Baum discloses sending data including a plurality of connection options to the video content source, the plurality of connection options including a PPP protocol communication link connection option (tables 1, 2, 0095, 0130-0135, 0144, 0149), receiving a selection of the managed PPP connection option to initiate a formation of at least a portion of point-to-point protocol communication (0082, 0125, 0126, 0130-0135).
- As for claim 26: Connection information is stored in a network management system. The connection information includes the address of the video content source and at least one connection rule (Baum's tables 1, 2, 0095, 0130-0135, 0144, 0149).

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- As for claim 41: The metric (viewing statistic, usage time, bandwidth and duration) associated with communication of the information stream is tracked during communication of the information stream (Swart's 0020, 0088, 0109, 0116)

Claims 17, 24, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent application publication 2007/0124448 (Baum et al), in view of US patent application publication 2005/0008017 (Datta et al), further in view of US patent application publication 2003/0028890 (Swart et al), further in view of US patent application publication 2006/0293965 (Burton).

- As for claims 17, 24, 40: Baum et al (hereinafter Baum) teach a computer implemented method and corresponding apparatus of network services comprising receiving a request for connection to a video content source in a first network (WAN, 0070) of multiple networks (0082, 0125, 0126), maintaining a list of available video content sources in the multiple networks, the list including a unique address for the video content source and at least one connection rule for accessing the video content source (0095, 0130-0135, 0144, 0149, tables 1 and 2), determining the unique address for the video content source (0130-0135), sending data including a plurality of connection options to the video content source, the plurality of connection options including a PPP protocol communication link connection option (tables 1,2, 0095, 0130-0135, 0144, 0149), initiating formation of at least a portion of point-to-point protocol communication (0082, 0125, 0126, 0130-0135) between a user device in a second network (LAN, 0070) of the multiple networks and the video content source

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(0116, 0126). Baum fails to teach switching from the point-to-point to Internet connection when the video content source is not reachable. In the same art of network access, Datta teaches using Internet connection as a backup when point-to-point connection fails (0010, 0037). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Datta's teaching of backup Internet connection to Baum. Motivation of the combining is for keeping quality of service. Per Baum, users are billed for the services provided (0133). Baum further teaches monitoring subscriber's bandwidth utilization (0138). Baum fails to clearly teach billing subscriber based on tracking a metric associated with communication of the information stream. However it would have been obvious to one of skill in the art that services provided have to be track in order to accurately charge the user. Implementation of tracking a metric associated with communication of the information stream for billing is well known and is disclosed by Swart (20, 59, 72). It would have been obvious to one of skill in the art to combine Swart's teaching of the metric tracking to Baum for billing customer. The metric is selected from a group consisting of information throughput and connection duration (0020, 0056, 0059, 0109). The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072) and informing the user the cost of service (0119, 0125). The combine Baum&Swart fails to teach accepting input method of payment. However implementation of accepting input method of payment is well known in the art (e.g., pay-per-view), and is disclosed by Burton (0030, 0176). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Burton's

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- teaching of accepting input method of payment to Baum&Swart. Motivation of the combine is for the business preparation and verification.
- As for claim 42: The metric (viewing statistic, usage time, bandwidth and duration) associated with communication of the information stream is tracked during communication of the information stream (Swart's 0020, 0088, 0109, 0116).

### ***Response to Arguments***

Applicant's arguments with respect to the amended limitations have been considered but are moot in view of the new ground(s) of rejection. Specifically, Datta teaches using Internet connection as a backup when point-to-point connection fails (0010, 0037). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Datta's teaching of backup Internet connection to Baum. Motivation of the combining is for keeping quality of service.

In response to the argument that Baum does not teach connection option, the limitation is disclosed by Baum in 0125 and 0126, wherein the user can select an ISP of choice.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO



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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ba Huynh/

Primary Examiner, Art Unit 2179